

STANDARD AGREEMENT

STD 213 (Rev. 10/2018)

AGREEMENT NUMBER

DRR18098

PURCHASING AUTHORITY NUMBER (if applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Department of Resources Recycling and Recovery (CalRecycle)

CONTRACTOR NAME

ECC Constructors LLC

2. The term of this Agreement is:

START DATE

January 28, 2019

THROUGH END DATE

January 31, 2020

3. The maximum amount of this Agreement is:

\$600,000,000.00 (Six hundred million dollars and zero cents)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

EXHIBITS	TITLE	PAGES
Exhibit A	Scope of Work	6
Exhibit B	Budget Detail and Payment Provisions	3
Exhibit C *	General Terms and Conditions	GTC 04/2017
Exhibit D	Special Terms and Conditions	7
	Attachment 1 – Recycled Content Certification	2
Exhibit E**	Invitation for Bid, DRR18088	
Exhibit F**	Proposal from ECC Constructors in response to Invitation for Bid, DRR18088	
Exhibit G	FEMA Public Assistance Program Contract Clauses	6
Exhibit H	Modification To General Provisions From Department of Transportation Standard Specifications.	3
	Items shown with double Asterisks (**) are hereby incorporated by reference and made part of this agreement as if attached hereto.	

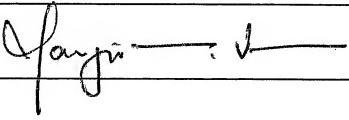
Items shown with an asterisk (), are hereby incorporated by reference and made part of this agreement as if attached hereto.**These documents can be viewed at www.dgs.ca.gov/ols/resources/standardcontractlanguage.aspx*

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

ECC Constructors LLC

CONTRACTOR BUSINESS ADDRESS 1240 Bayshore Highway, Suite 301	CITY Burlingame	STATE CA	ZIP 94010
PRINTED NAME OF PERSON SIGNING Manjiv S. Vohra	TITLE PRESIDENT		
CONTRACTOR AUTHORIZED SIGNATURE 	DATE SIGNED 02/08/2019		

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STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Resources Recycling and Recovery

CONTRACTING AGENCY ADDRESS

1001 I Street

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

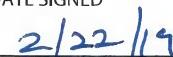
Tiffany Donohue

TITLE

CONTRACTING AGENCY AUTHORIZED SIGNATURE



DATE SIGNED



CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION, IF APPLICABLE

Governor's Emerg. Proc. (dated 11-08-18)

EXHIBIT A

SCOPE OF WORK

1. ECC Constructors LLC (Contractor) agrees to provide the Department of Resources Recycling and Recovery (CalRecycle), with emergency fire debris removal and recovery services as described herein:
2. The Project Coordinators during the term of this Agreement will be:

CalRecycle Contract Manager

Name: Alan Zamboanga
Phone: (916) 341-6450
Fax: (916) 319-7492
Email: alan.zamboanga@calrecycle.ca.gov

ECC Constructors LLC

Name: Barbara Gowney
Phone: (201) 953-2790
Email: BGowney@ecc.net

Direct all Agreement inquiries to:

CalRecycle Contract Analyst

Contracts Unit

Attention: Michael VanBaaren
Address: 1001 I St., MS 19-A
Sacramento, CA 95814
Phone: (916) 341-6303
Fax: (916) 319-7167
Email: michael.vanbaaren@calrecycle.ca.gov

ECC Constructors LLC

Attention: August Ochabauer
Address: 1240 Bayshore Highway
Burlingame, CA 94010
Phone: (650) 465-0688
Fax: (650) 347-8789
Email: AOchabauer@ecc.net

3. Background

The Camp Fire has impacted Butte County. To date, it is estimated that over 14,000 parcels contained structures destroyed or damaged by the wildfire. These structures are mostly on private property that either require individual property owners to sign a Right of Entry form or will go through an abatement process for CalRecycle and its Contractors to perform this work. CalRecycle anticipates this Agreement to include approximately 5,400 properties.

Debris removal work will be authorized Monday through Saturday from the hours of 0700 to 1800 or as directed by the Incident Management Team (IMT). Every fifth Saturday will be a non-working day and considered a safety stand-down day. CalRecycle requires the Contractor to mobilize a minimum of 2 (two) asbestos abatement crews and 1 (one) chimney tipping crew within 48 hours of receiving a Notice to Proceed and initial Work Order and 15 debris removal crews to the project site within 5 (five) days of receiving the Notice to Proceed and initial Work Order. The Contractor must have the ability to increase by up to 135 debris removal crews (if necessary) for a potential total of 150 debris removal crews within 21 calendar days. All additional crews will be authorized by the IMT and crews will be reduced only at the direction of the IMT. The Contractor is advised that the asbestos site abatement task as described in the Debris Removal Operations Plan (DROP) is the first order of business in this Agreement and that for many sites, the remainder of the debris removal tasks cannot take place at a given property until after this task is completed.

If Contractor fails to provide the minimum number of crews at the project site as noted below, CalRecycle reserves the right to immediately terminate the Agreement with the Contractor and contract with the next

lowest bidder; CalRecycle can enter into agreements with both contractors or transition from one contractor to the next. CalRecycle also reserves the right to reduce the number of lots assigned to Contractor if that Contractor fails to provide debris removal crews as required, instead assigning those lots to another existing Contractor or a new Contractor. CalRecycle also reserves the right to impose liquidated damages, per Clause 19 of Exhibit D, if Contractor fails to provide debris removal crews as required. In the event that CalRecycle terminates the Agreement for cause, per clause 7 of Exhibit C, CalRecycle reserves the right to contract with the next lowest bidder.

Crew Number	Type	Response Timeframe
Two (2)	Asbestos abatement crews	Within 48 hours of NTP
One (1)	Chimney tipping crew	Within 48 hours of NTP
15	Debris removal crews	Within five (5) days
135 additional, 150 total	Debris removal crews (inside the town of Paradise)	Within 21 days

4. Work to be Performed

The work to be performed in the Agreement primarily involves the removal and disposal of burned debris, burn ash, recyclable metals, concrete, and contaminated soil, recycling materials that can be recycled, as well as related support services, such as dust control, installation of erosion control, and the removal of hazard trees. Burned debris, burn ash, recyclable metals, concrete and contaminated soil will be handled separately, and will be tracked separately (material quantities and costs) to meet the overall objectives of this project and to track costs. Based upon CalRecycle's experience on fire debris removal projects, typical quantities of materials generated from a residential burn debris site are: 200 tons of burn ash, 10 tons of recyclable steel, 70 tons of recyclable concrete, and 70 tons of contaminated soil. The types and quantities of debris removed and disposed will vary depending on the type of disaster for which the debris removal team is being deployed.

The plan for the removal of materials will be more fully described in the Debris Removal Operations Plan (DROP), Version 1.0 with Project Specifications for Camp Incident in Butte County. A DROP template, for a debris removal project is included in Exhibit E, but the DROP is a living document and will be updated and revised as each project progresses. As the DROP is revised, the most recent version at the time will control work under this Agreement and work orders may reflect those revisions. Work will be performed at the direction of, and in cooperation with, the employees and agents of CalRecycle and the IMT, who will use the latest version of the DROP for direction and guidance.

All work will be conducted as determined by both CalRecycle's Health and Safety professional who will prepare a Community Health and Safety Plan and the Contractor's Health and Safety professional who will prepare a Health and Safety Plan for the Contractor's employees and sub-contractors.

All site personnel who are tasked to enter an exclusion zone and Superintendents shall be currently certified for Hazardous Waste Operations and Emergency Response (HAZWOPER) in accordance with Title 29, Code of Federal Regulations (29 CFR), Section 1910.120 and Title 8, California Code of Regulations (8 CCR), Section 5192. The site superintendents shall have appropriate experience to adequately perform the tasks outlined below.

Division of Work

CalRecycle will distribute the work load by geographic areas between Contractors. Assignment of lots to specific Contractors and demands for specific numbers of crews from each Contractor shall be solely at the discretion of CalRecycle. CalRecycle reserves the right to assign lots based on operational needs, overall operational progress, specific experience of particular crews, or any other relevant operational details as determined by the IMT. It is not presently anticipated that CalRecycle will assign lots in the Town of Paradise to the Contractor awarded work Outside the Town of Paradise or vice versa, but CalRecycle reserves the right to do so by issuing a change order.

5. Tasks

All work under this Agreement shall be completed in accordance with the State of California Department of Transportation publication entitled Standard Specifications viewable at http://www.dot.ca.gov/hq/esc/oe/construction_standards.html that is in effect when the work is performed (and CalRecycle's "Modification To General Provisions From Department of Transportation Standard Specifications" document), the DROP, and in accordance with the plans, special provisions, and instructions included in Work Orders issued under the contract.

- A. Through Work Orders, CalRecycle will direct the Contractor on where remediation work is to be performed and by what date it shall be completed.
- B. CalRecycle will have the option to dictate the number of asbestos and debris removal crews utilized at any given time. CalRecycle requires the Contractor to mobilize a minimum of two (2) asbestos abatement crews and one (1) chimney tipping crew within 48 hours of receiving a Notice to Proceed and initial Work Order and 15 debris removal crews to the project site within five (5) days of receiving the Notice to Proceed and initial Work Order and no Change Order or adjustment in price will be granted based on the number of debris removal crews utilized unless the number exceeds 150.
- C. The Contractor shall complete remediation of all lots to the satisfaction of CalRecycle. Generally, this means that all debris materials have been removed, soil samples have been taken and tested as acceptable (soil sampling and approval will not be performed by the Contractor), hazard trees have been removed, and all erosion control has been installed. While the basic steps for taking a lot from how it exists after the disaster to completion are detailed in the DROP, the Contractor shall work under IMT direction and discretion on the details as to what is required to complete each residential lot cleanup. The Contractor should be aware that, for a post-fire debris cleanup, the soil sampling process can delay the completion of a lot; a delay of two weeks is not unusual.

D. Work Orders

- 1) All work under this Agreement shall be performed through Work Orders issued to the Contractor by CalRecycle's Contract Manager. When the IMT determines the need for services under this Agreement, a Work Order will be issued by the Contract Manager. Work Orders will detail activities to be completed, a not to exceed cost, and provide a schedule for completion.
- 2) The Contractor shall not perform or undertake any work that is not indicated or addressed in a Work Order. The Contractor shall immediately notify the Contract Manager and IMT of any condition or event that may interfere with completion of the work, which may require a modification in the Work Order, or which cause an obvious inefficiency. The CalRecycle Contract Manager will, in a reasonable time, provide written direction to the Contractor

clarifying any required adjustment to the Work Order. Any unauthorized modification of the Work Order, work in excess of that provided for in the Work Order, obviously inefficient work, or changes and additions not pre-authorized in writing by the CalRecycle Contract Manager, may not be considered for compensation.

- 3) CalRecycle reserves the right to make such alterations, deviations, additions to, or deletions from Work Orders, plans, and specifications, as deemed necessary or advisable by the Contract Manager. Any such changes will be set forth in an amended Work Order which will specify, in addition to the work to be done in connection with the change made, adjustment of Work Order time, if any, and the basis of compensation for such work, if at variance with that indicated in the Work Order. An amended Work Order will not become effective until approved in writing by the Contract Manager.

Upon receipt of an approved amended Work Order, the Contractor shall proceed with the ordered work. Compensation for any change shall be as provided for in the amended Work Order. The Contractor will not be compensated for any work that exceeds that indicated in the Work Order, or that has not been authorized in writing by the Contract Manager.

- 4) If the Contractor becomes aware of changed site conditions, is directed to perform work outside the Scope of Work of this Agreement, or encounters any other situation where it believes an adjustment of costs from the Bid Schedule is justified, the Contractor must immediately notify the Contract Manager, and the IMT, of the need for a Change Order. Failure to promptly notify the Contract Manager constitutes a waiver of any claim for additional compensation prior to actual notification to the Contract Manager.

The Contract Manager, in consultation with the IMT, shall notify the Contractor whether to continue the affected work and issue a Change Order if adjustment to the Bid Schedule costs is necessary. The Contractor shall promptly provide all information requested by the Contract Manager in support of a Change Order. Upon completion, a Change Order shall be attached to this Agreement through the formal amendment process. A Change Order shall specify the effective date of the adjusted costs, but those costs cannot be invoiced at the adjusted rate prior to the completion of the amendment.

- 5) A payment bond and performance bond will be required for each Work Order. The performance bond must unconditionally guarantee the Contractor's and its subcontractor's performance in all respects of the terms, conditions, and provisions of the Contract and the Work Order. In no event shall the Contractor or its subcontractors begin work under a Work Order until the Contractor provides complete and valid bonds to CalRecycle's Contract Manager.

- E. The Contractor shall be responsible for coordinating with the IMT, CalRecycle's consultant, and providing information as required to document material quantities and the project costs allocable to each type of material by residential lot and/or per public right-of-way (whichever is applicable). The method, detail and adequacy of the material and cost tracking information by lot will be jointly developed by the IMT and CalRecycle's Consultant, with final approval of adequacy coming from the State.
- F. Overview of Operations: The Debris Removal and Recovery Services shall follow a systematic approach to removing debris from the property, as described in the DROP, with responsibilities of the Contractor noted below. The overall operations for Personal Property Debris Removal Operations (PPDRs) include:

- a. Initial Site Reconnaissance (Performed by CalRecycle's Consultant)
 - i. Install address and project signs.
 - ii. Identify water and electrical sources.
 - iii. Identify equipment and material staging area.
 - iv. Identify disposal and recycling options.
 - b. Individual Site Assessments (Performed by CalRecycle's Consultant)
 - i. Check for underground utilities by alerting Underground Service Alert (USA) for public right of way.
 - ii. Check for underground utilities by using an independent private utility locator service for private right-of-ways, if necessary.
 - iii. Identify septic tank and leach field locations on each property, if feasible.
 - iv. Identify water wells, springs, other water sources and water storage tanks on properties not serviced by the local water agency, if feasible.
 - c. Debris Removal (Performed through this contract)
 - i. Remove vehicles for recycling or disposal.
 - ii. Collect, consolidate, and remove metals for recycling.
 - iii. Collect, consolidate, and remove concrete for recycling.
 - iv. Collect, consolidate, and remove ash (if applicable), debris and soil (if applicable) for disposal.
 - v. Collect, consolidate, and remove hazardous trees for recycling or disposal.
 - vi. Finish grading/smoothing ground surface (if applicable).
 - d. Confirmation Sampling (Performed by CalRecycle's Consultant – if applicable)
 - i. If confirmation sampling, conducted by others, results exceed cleanup goals, another layer of soil will be removed through this contract for disposal and the site re-sampled.
 - ii. If results are less than cleanup goals, site will be prepared for final erosion control and certification.
 - e. Implement Erosion Control (Performed through this contract – if Contract Manager and IMT team determined applicable)
 - i. Implement storm water best management practices to control sediment, reduce runoff of pollutants and promote re-vegetation from each remediated property. Erosion control will only be placed on the structural debris areas or areas disturbed by debris crews and not on the entire parcel.
 - ii. Erosion control practices shall use compost produced by California recycled organic materials in accordance with the DROP.
 - f. Additional major items of work anticipated in this project include, but are not limited to:
 - i. Coordination of all Contractor resources;
 - ii. Establishing and ensuring traffic control plans; and
 - iii. Individual property Cost tracking and community Cost tracking.
- G. Additionally, the Contractor shall prepare a site specific health and safety plan for Contractor's and subcontractors' field staff in coordination with CalRecycle Health and Safety professional(s).

- H. The Contractor shall provide ongoing estimates of work to CalRecycle to inform CalRecycle's decisions on individual site debris removal crew and overall debris removal team efficiencies and overall costs to date.
- I. There may be a need for the Contractor to provide additional, presently unanticipated services in support of the Debris Cleanup Program, if requested by CalRecycle. Any additional services must be approved by the Contract Manager in writing and in accordance with the "Work Authorization" clause of Exhibit D. All rates must be approved in the Work Authorization document, and shall be reasonable, typical of the industry, and allocable. This is the only mechanism by which the Contractor will be paid for any costs not included on the Bid Schedule. If the Contractor is directed to perform any additional, unanticipated work, the Contractor shall begin the Work Authorization process with the Contract Manager before commencing the additional work. The Contractor may not be compensated for additional work if this clause and the Work Authorization clause of Exhibit D are not adhered to. The additional work will be covered with a change order, the cost of which will be (unless otherwise determined by the Contract Manager) based on either a lowest responsive bid (of 2-3 bids) or on published CalTrans labor, equipment and/or materials rates.

6. Location of Services

Services shall be provided in Butte County.

7. Control of Work

- 1. CalRecycle Contract Manager has the authority to determine the quality and acceptability of the following:
 - Work to be performed
 - Rate and progress of the work
 - Fulfillment of the services provided by the Contractor
 - Compensation for services provided by the Contractor

The project Contract Manager shall be the only CalRecycle point of contact for contract, payment, and contractor performance issues as described in the following Control of Work section.

- 2. The Contractor shall designate a Project Manager who holds the following authority:

- Act as the Contractor's Representative for work to be provided under this Agreement; and
 - Act as the Contractor's Representative regarding contractual matters relating to this Agreement

If during the course of the Agreement, it is deemed necessary to replace the Project Manager, CalRecycle Contract Manager approval is required prior to the replacement being made.

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. INVOICING AND PAYMENT:

- A. For services satisfactorily rendered and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for completed work in accordance with the rates specified herein.
- B. Itemized invoices shall be submitted in triplicate, with two sets of supporting documentation (i.e., receipts, timesheets, etc.), not more frequently than monthly in arrears to:

Accounts Payable
Department of Resources Recycling and Recovery
Fiscal Services Branch
U.S. Postal Correspondence:
P.O. Box 4025, MS-19A
Sacramento, CA 95812-4025
Federal Express Correspondence:
1001 I Street, MS-19A
Sacramento, CA 95814

- C. Each invoice submitted to CalRecycle must include the following information:

- Invoice Number
- Agreement Number
- Description of Rendered Activities/Services
- Submitting Contractor's Address
- Invoice Period

2. BUDGET CONTINGENCY CLAUSE:

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either: cancel this Agreement with no liability occurring to the State, or offer an Agreement Amendment to the Contractor to reflect the reduced amount.
3. **PROMPT PAYMENT CLAUSE:** Payment will be made in accordance with and within the time specified in Government Code, Chapter 4.5 (commencing with Section 927).
4. **TAXES:** The State of California is exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales or use tax imposed by another state.

5. **COST BREAKDOWN:** Separate invoices itemizing all costs are required for all work performed under each Work Order. Items below are not sequential.

Item No.	Item Description	Unit Price
<u>Overall Project Costs:</u>		
1	Community Dust Control, water truck	\$2,574.21 per truck per 10 hour day
2	Mobilization/Demobilization to job	\$6,209.90 per crew
3	Community Street Sweeping	\$3,149.00 per sweeper per 10 hour day
4	Community Traffic Control	\$2,830.00 per crew per 10 hour day
5a	Personnel Air Monitoring (asbestos, metals, silica or other as applicable to the operation)	\$211.12 per crew per day monitored
5b	Personnel Air Monitoring (chromium +6 and mercury)	\$144.90 per crew per day monitored
7	Non-Working Days	\$1,250.00 per crew per day
8	Delays	\$444.65 per crew per hour
<u>Debris Removal per Lot:</u>		
10a	Asbestos Abatement - Crews	\$7,022.04 per crew per 10 hour day
10b	Asbestos Abatement – Materials removed and disposed	\$33.17 per cu yd.
11	Misc. Metals	\$53.50 per ton
12	Burned Debris and Ash (if applicable)	\$110.43 per ton
13	Concrete	\$15.25 per ton
14	Contaminated Soil/Residual Ash (if applicable)	\$26.75 per ton
15	Contaminated Soil – Rescrape (if applicable)	\$67.27 per ton
16	Erosion Control (if applicable)	\$2,652.40 per site
18	Vehicle Abatement	\$331.34 per vehicle
19	Debris Removal Crew Cost	\$12,120.00 per day
<u>Transportation:</u>		
20	Hauling of Metals	\$80.25 per ton for first 40 miles
21		\$0.01 additional per ton out to 80 miles
22		\$0.01 additional per ton out to 150 miles
23	Hauling of Burned Debris and Ash (if applicable)	\$77.47 per ton for first 40 miles
24		\$41.40 additional per ton out to 80 miles
25		\$7.50 additional per ton out to 150 miles
26	Hauling of Concrete	\$14.07 per ton for first 40 miles
27		\$0.01 additional per ton out to 80 miles

28		\$0.01	additional per ton out to 150 miles
29		\$42.10	per ton for first 40 miles
30		\$6.40	additional ton out to 80 miles
31		\$1.51	additional ton out to 150 miles
<u>Disposal/Recycling:</u>			
40	Disposal / Recycling	All material recycling and disposal will be at facility rates.	
<u>Other Per Lot Services:</u>			
50	Mobilization / Demobilization between lots	\$3,293.89	per crew per lot
51	Property Owner Assistance	\$517.49	per crew per hour
52a	Road Base Rock Application	\$11.40	per ton placed
52b	Clean 1 ½-inch Crushed Rock	\$11.57	per ton placed
52c	6-inch minus rip-rap rock	\$12.10	per ton placed
53	Hazard Tree Removal	\$89.00	per tree up to 18"
54		\$144.00	per tree greater than 18"
55	Masonry Chimney / Wall Demolition Crews	\$528.00	per Chimney / Wall
56	Safety Fencing Installation	\$10.86	per linear foot
57	Septic Tank Abandonment	\$562.00	per tank
58	Mobile dedicated heavy duty concrete breaker equipment (backhoe and hydraulic breaker)	\$22,661.00	per breaker/month

6. **PROGRESS PAYMENT AND PAYMENT WITHHOLD:** Progress Payments are permitted for tasks completed under this agreement as frequently as twice per month. The provisions for payment under this contract will be subject to a ten percent (10%) withholding per separate and distinct task. Any funds withheld with regard to a particular task may be released upon completion of that task to the satisfaction of CalRecycle. For debris removal, the individual lots constitute separate and distinct tasks, and completion constitutes the lots being cleared and taken through the installation of erosion control measures per the Operations Plan, and acceptance as complete by CalRecycle. The Contractor agrees to comply with the requirements of Public Contract Code (PCC), Section 10346.

EXHIBIT D

SPECIAL TERMS AND CONDITIONS

1. **AGENCY LIABILITY:** The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, CalRecycle shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.
2. **AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties. CalRecycle reserves the right to amend this Agreement through a formal written amendment signed by both parties, for additional time and/or funding.
3. **CALIFORNIA WASTE TIRES:** Unless otherwise provided for in this contract, in the event the Contractor and/or Subcontractor(s) purchases waste tires or waste-tire derived products for the performance of this Agreement, only California waste tires and California waste tire-derived products shall be used. As a condition of payment under this Agreement, the Contractor must provide documentation substantiating the source of the tire materials used during the performance of this Agreement to the Contract Manager.

All formal notices required by this Agreement must be given in writing and sent by prepaid certified mail, fax, personal delivery or telex.
4. **CONTRACT MANAGEMENT:** The Contractor and the agents and employees of the Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California. The Contractor may change the designated Project Director, but CalRecycle reserves the right to approve any substitution of the Project Director. Contractor's key personnel may not be substituted without CalRecycle's Contract Manager's prior written approval. CalRecycle may change the Contract Manager by notice given to the Contractor at any time. CalRecycle staff will be permitted to work side by side with the Contractor's staff to the extent and under conditions that may be directed by the Contract Manager. In this connection, CalRecycle's staff will be given access to all required data, working papers, etc. The Contractor will not be permitted to utilize the CalRecycle's staff for the performance of services, which are the responsibility of the Contractor unless the Contract Manager previously agreed to such utilization in writing, and any appropriate adjustment in price is made. No charge will be made to the Contractor for the services of CalRecycle's staff for coordination or monitoring functions.
5. **CONTRACTOR EVALUATIONS:** If this Agreement is for consulting services, CalRecycle will evaluate the Contractor's performance within sixty days of the completion of this Agreement and shall remain on file by CalRecycle for a period of thirty-six months. If the Contractor does not satisfactorily perform the work or service specified in this Agreement, CalRecycle will submit a copy of the negative evaluation to the Department of General Services (DGS), Office of Legal Services, within five (5)

working days of the completion of the evaluation. Upon filing an unsatisfactory evaluation with the DGS, CalRecycle shall notify and send a copy of the evaluation to the Contractor within fifteen days. The Contractor shall have thirty days to prepare and send a written response to CalRecycle and the DGS. CalRecycle and the DGS shall file the Contractor's statement with the evaluation. (PCC §10369).

6. **CONFIDENTIALITY/PUBLIC RECORDS:** The Contractor and CalRecycle understand that each party may come into possession of information and/or data, which may be deemed confidential or proprietary by the person or organization furnishing the information or data. Such information or data may be subject to disclosure under the California Public Records Act, commencing with GC § 6250, or the PCC. CalRecycle agrees not to disclose such information or data furnished by Contractor and to maintain such information or data as confidential when so designated by Contractor in writing at the time it is furnished to CalRecycle, only to the extent that such information or data is exempt from disclosure under the California Public Records Act and the PCC. All information or data is subject to the Access to Records Clause, Clause G of Exhibit G.
7. **CONFLICT-FUTURE BIDDING LIMITATION:** Pursuant to Public Contracts Code Section 10365.5:
 - (a) No person, firm, or subsidiary therefore who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract.
 - (b) Subdivision (a) does not apply to any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract that amounts to no more than ten (10) percent of the total monetary value of the consulting services contract.
 - (c) Subdivisions (a) and (b) do not apply to consulting services contracts subject to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.
8. **CONSULTING SERVICES:** If this Agreement is for consulting services, the Contractor is hereby advised of its duties, obligations and rights under PCC §§10335 through 10381.
9. **COPYRIGHTS AND TRADEMARKS:** The Contractor shall assign to CalRecycle any and all rights, title and interests to any copyrightable material or trademarkable material created or developed in whole or in any part as a result of this Agreement, including the right to register for copyright or trademark of such materials. The Contractor shall require that its subcontractors agree that all such materials shall be the property of CalRecycle. Such title will include exclusive copyrights and trademarks in the name of CalRecycle.
For contracts of \$5,000 or more, any document or written report prepared for or under the direction of CalRecycle, shall include a notation on the inside cover as follows:
"Prepared as part of CalRecycle contract number DRR18098, Total Contract Amount \$600,000,000.00 pursuant to Government Code Section 7550."
10. **DELIVERABLES:** All documents and/or reports drafted for publication by or for CalRecycle in accordance with this contract shall adhere to CalRecycle's Contractor Publications Guide at www.calrecycle.ca.gov/Contracts/PubGuide/ and shall be reviewed by CalRecycle's Contract Manager in consultation with CalRecycle editor.

11. **ENTIRE AGREEMENT**: This Agreement supersedes all prior agreements, oral or written, made with respect to the subject hereof and, together with the Attachments and/or Exhibits hereto, contains the entire Agreement of the parties.
12. **ENVIRONMENTAL JUSTICE**: In the performance of this Agreement, the Contractor shall conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low income populations of the State. (Government Code Section 65040.12(e)).
13. **FORCE MAJEURE**: Neither CalRecycle nor the Contractor, including the Contractor's subcontractor(s), if any, will be responsible hereunder for any delay, default or nonperformance of this Agreement, to the extent that such delay, default or nonperformance is caused by an act of God, weather, accident, labor strike, fire, explosion, riot, war, rebellion, sabotage, or flood, or any other cause beyond the reasonable control of such party.
14. **GRATUITIES**: CalRecycle may terminate this Agreement if gratuities were offered or given by the Contractor, or any agent or representative of the Contractor, to any employee of CalRecycle, with a view toward securing a contract or securing favorable treatment with respect to awarding or amending or making a determination with respect to performance of this Agreement.
15. **IMPRATICABILITY OF PERFORMANCE**: This Agreement may be suspended or cancelled, without notice at the option of the Contractor, if the Contractor's or CalRecycle premises or equipment is destroyed by fire or other catastrophe, or so substantially damaged that it is impractical to continue service or in the event the Contractor is unable to render service as a result of any action by any governmental authority.
16. **INSURANCE**: When required, the Contractor must provide: 1) a Certificate of Insurance insuring CalRecycle, and/or 2) verification of Worker's Compensation insurance. The Contractor must provide said Certificate of Insurance and/or verification to CalRecycle within ten (10) days after notification of CalRecycle's intent to award the Agreement. The Agreement will not be executed nor can work begin unless said Certificate of Insurance and/or verification is provided to CalRecycle.

The Certificate of Insurance must be in effect and shall include the following terms and conditions:

- (a) CalRecycle, its officers, agents, employees, and servants shall be included as additional insured.
- (b) The dates of inception and expiration of coverage shall be specified.
- (c) A minimum liability coverage of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined shall be specified. The coverage shall not include a deductible feature.
- (d) The insurer will not cancel the insured's coverage without thirty days prior written notice to CalRecycle.
- (e) CalRecycle is not liable for the payment of premiums or assessments on said policy.
- (f) The insurance coverage shall be on an occurrence basis only.

In the event the Certificate of Insurance should expire or be cancelled during the term of this Agreement, the Contractor agrees to provide, at least thirty days prior to said

expiration or cancellation, a new Certificate of Insurance evidencing coverage, as provided for herein, for not less than one (1) year or for the remainder of the contractual agreement, whichever is greater. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, CalRecycle may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.

17. **LIABILITY FOR NONCONFORMING WORK:** The Contractor will be fully responsible for ensuring the completed work conforms to the agreed upon terms. If nonconformity is discovered prior to the Contractor's deadline, the Contractor will be given a reasonable opportunity to cure the nonconformity. If the nonconformity is discovered after the deadline for the completion of the project, CalRecycle, in its sole discretion, may use any reasonable means to cure the nonconformity. The Contractor shall be responsible for reimbursing CalRecycle for any additional expenses incurred to cure such defects.
18. **LICENSE OR PERMITS:** The Contractor shall be an individual or firm licensed to do business in California and shall obtain at his/her expense all license(s) and permit(s) required by law for accomplishing any work required in connection with this Agreement. In the event the Contractor fails to keep in effect at all times all required license(s) and permit(s), CalRecycle may, in addition to other remedies it may have, terminate this Agreement upon occurrence of such event.
19. **LIQUIDATED DAMAGES:** It is the intent of this Contract that individual projects proceed in an uninterrupted manner from the date of commencement until all work contemplated in the Contract/Work Order has been completed. The Contract/Work Order authorized by CalRecycle Staff, and accepted by the Contractor shall include the number of days authorized to complete the project. All parties to the Contract agree that CalRecycle will sustain damage for any day on which the Contractor arbitrarily suspends operations, or fails to prosecute the work. It is and will be impracticable and extremely difficult to ascertain and determine the actual damage which CalRecycle will sustain in the event of and by reason of such delay; and it is therefore agreed that the Contractor will pay to CalRecycle the sum of \$10,000 for each day on which the Contractor fails to perform work in accordance with the approved schedule without the approval of CalRecycle staff. The Contractor agrees to pay said liquidated damages herein provided for, and further agrees that CalRecycle may deduct the amount thereof from any moneys due or that may become due the Contractor under the Contract. The Contractor shall not be assessed liquidated damages when the delay in completing the project is caused by the state.
20. **OWNERSHIP OF DRAWINGS, PLANS AND SPECIFICATIONS:** CalRecycle will have separate and independent ownership of all drawings, design plans, specifications, notebooks, tracings, photographs, negatives, reports, findings, recommendations, data and memoranda of every description or any part thereof, prepared under this Agreement. The originals and all copies thereof will be delivered to CalRecycle upon request. CalRecycle will have the full right to use said originals and copies in any manner when and where it may determine without any claim on the part of the Contractor, its vendors or subcontractors to additional compensation.

21. **PATENTS:** The Contractor assigns to CalRecycle all rights, title, and interest in and to each invention or discovery that may be capable of being patented, that is conceived of or first actually reduced to practice in the course of or under this Agreement.
22. **PUBLICITY AND ACKNOWLEDGEMENT:** The Contractor agrees that it will acknowledge CalRecycle's support whenever projects funded, in whole or in part, by this Agreement are publicized in any news media, brochures, or other type of promotional material.
23. **RECYCLED-CONTENT PRODUCT PURCHASING:** In the performance of this Agreement, the Contractor shall purchase used and/or recycled-content products as set forth on the back of the Recycled-Content Certification Form (Exhibit D, Attachment 1). For assistance in locating recycled-content products, please search the recycled-content product database available at: www.calrecycle.ca.gov/RCP. If after searching the database, contractors are unable to find the recycled-content products they are looking for, please notify CalRecycle's Contract Manager. All recycled content products purchased or charged/billed to CalRecycle that are printed upon such as promotional items, publications, written materials, and other educational brochures shall have both the total recycled content (TRC) and the post-consumer (PC) content clearly printed on them. In addition, any written documents such as, publications, letters, brochures, and/or reports shall be printed double-sided on 100% post-consumer (PC) paper. Specific pages containing full-color photographs or other ink-intensive graphics may be printed on photographic paper. The paper should identify the post-consumer recycled content of the paper (i.e., "printed on 100% post-consumer paper"). When applicable, the Contractor shall provide the Contract Manager with an electronic copy of the document and/or report for CalRecycle's uses. When appropriate, only an electronic copy of the document and/or report shall be submitted and no hard copy shall be provided.
24. **REMEDIES:** Unless otherwise expressly provided herein, the rights and remedies hereunder are in addition to, and not in limitation of, other rights and remedies under the Agreement, at law or in equity, and exercise of one right or remedy will not be deemed a waiver of any other right or remedy.
25. **SETTLEMENT OF DISPUTES:** In the event of a dispute, the Contractor shall file a "Notice of Dispute" with CalRecycle's Director or his/her designee with ten (10) days of discovery of the problem. Within ten (10) days, the Director or his/her designee shall meet with the Contractor and CalRecycle Contract Manager for the purpose of solving the dispute.
26. **STOP WORK NOTICE:** Immediately, upon receiving a written notice to stop work, the Contractor shall cease all work under this Agreement.
27. **SUBCONTRACTORS:** All Subcontractors previously identified in the bid/proposal submitted are considered to be acceptable to CalRecycle. Any change or addition of Subcontractors will be subject to the prior written approval of the Contract Manager or the Director or his/her designee. Upon termination of any Subcontract, the Contractor shall notify the Contract Manager or the Executive Director immediately. If CalRecycle or the Contractor determines that the level of expertise or the services required are beyond that provided by the Contractor or its routine Subcontractors, The Contractor will be required to employ additional Subcontractors. Nothing contained in this Agreement or otherwise, shall create any contractual relation between CalRecycle and any

Subcontractors, and no Subcontract shall relieve the Contractor of its responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to CalRecycle for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its Subcontractors is an independent obligation from CalRecycle obligation to make payments to the Contractor. As a result, CalRecycle shall have no obligation to pay or to enforce the payment of any moneys to any Subcontractor.

28. SUBCONTRACTING WITH LOCAL BUSINESSES:

- (a) To encourage the economic recovery and well-being of the residents of an area where a disaster or state of emergency has been declared, CalRecycle encourages the Contractor to use local businesses to the extent practicable and economically feasible in the performance of this Agreement. If the Contractor is unable to secure sufficient local businesses, it is encouraged to utilize California-based businesses.
- (b) For the purposes of this section local business means a business which has its headquarters within Butte County.
- (c) During the performance of this Agreement the contractor agrees, if subcontractors are to be let, to take the following steps to promote the use of local businesses:
 1. Place qualified local businesses on solicitation lists.
 2. Assure local businesses are solicited whenever they are potential resources.
 3. Dividing total requirements and/or establishing delivery schedules whenever economically feasible into smaller tasks or quantities to permit participation by local businesses.

29. SUCCESSORS: The provisions of this Agreement will be binding upon and inure to the benefit of CalRecycle, the Contractor, and their respective successors.

30. TERMINATION FOR CONVENIENCE: CalRecycle shall have the right to terminate this Agreement at its sole discretion at any time upon thirty days written notice given to the Contractor. In the case of early termination, a final payment will be made to the Contractor upon approval by the Contract Manager of a financial report, invoices for costs incurred to date of termination and a written report describing all work performed by the Contractor to date of termination.

31. UNRELIABLE LIST: Prior to authorizing a Subcontractor(s) to commence work under this Agreement, the Contractor shall submit to CalRecycle a declaration from the Subcontractor(s), signed under penalty of perjury, stating that within the preceding three years, none of the events listed in Section 17050 of Title 14, California Code of Regulations, Natural Resources, Division 7, have occurred with respect to the subcontractor(s).

Placement of Contractor on CalRecycle Unreliable List anytime after award of this Agreement may be grounds for termination of Agreement. If a Subcontractor is placed on CalRecycle Unreliable List after award of this Agreement, the Contractor may be required to terminate the Subcontract.

32. WASTE REDUCTION: In the performance of this Agreement, the Contractor shall take all reasonable steps to ensure that materials purchased or consumed in the course of the

project are utilized both effectively and efficiently to minimize the generation of waste. The steps should include, but not necessarily be limited to, the use of reusable products, the use of recyclable and compostable products, discretion in the amount of materials used, the provision of alternatives to disposal for materials consumed, and the practice of other waste reduction measures where feasible and appropriate.

33. **WORK AUTHORIZATION:** If this Agreement is for services as needed, or has clearly specified sub-categories a work authorization will be required before work can begin pursuant to this Agreement. The Contract Manager will make this determination, when work authorizations are required, the Contract Manager will prepare a work authorization for each item of work. Each work authorization, as appropriate, will consist of a detailed statement of the purpose, objectives or goals to be undertaken by the Contractor, identification of the Contractor/subcontractor team, all significant material to be developed and delivered by the Contractor, all materials to be furnished by CalRecycle to the Contractor, the Contractor's estimated time schedule and person hours, billing rates and total cost of the work authorization.
- (a) All work authorizations will be in writing, negotiated and approved by the Contract Manager and the Contractor's Project Director prior to beginning work. However, in situations where expediency is of the utmost importance, the Contract Manager may verbally authorize the Contractor to begin work following up with written authorization.
 - (b) The level of effort required for each work authorization will vary for each proposed project. Therefore, the Contract Manager will establish the time lines for completion of duties to be performed at the time of assignment.
 - (c) CalRecycle reserves the right to require the Contractor to stop or suspend work on any work authorization. The Contract Manager will provide, in writing to Contractor's Project Director, notice of the date work is to be halted or suspended. Approved costs incurred to that date shall be reimbursed in accordance with this Agreement's provision.
 - (d) Each work authorization will be numbered sequentially.
 - (e) The actual costs of a completed, approved work authorization will not exceed the authorized amount, except if, in the performance of the work, the Contractor determines that the actual cost will exceed the estimated costs; the Contractor will immediately notify the Contract Manager. Upon such notification, the Contract Manager may:
 1. Alter the scope of the work authorization to accomplish the work within the estimated costs; or
 2. Augment the work authorization budget; or
 3. Authorize the Contractor to complete the work for the actual costs; or
 4. Terminate the work authorization.

Department of Resources Recycling and Recovery
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Exhibit D Attachment 1 (Page 1 of 2)

STATE OF CALIFORNIA
Department of Resources Recycling and Recovery (CalRecycle)
CalRecycle 74C (Rev. 06/10 for Contracts)

Recycled-Content Certification

To be completed by Contractor	
Name of Contractor:	
Contract #:	Work Order #:

Check this box if no products, materials, goods, or supplies were purchased with contract dollars and submit to the CalRecycle Contract Manager.

This form to be completed by contractor. The form must be completed and returned to CalRecycle with a row completed for each product purchased with contract dollars. Attach additional sheets if necessary. Information must be included, even if the product does not contain recycled-content material. Product labels, catalog/website descriptions, or bid specifications may be attached to this form as a method of providing that information. Add additional rows as needed.

Contractor's Name _____ Date _____
Address _____ Phone _____
Fax _____ E-mail _____ Web site _____

Product Manufacturer	Product Description / Brand	Purchase Amount (\$)	¹ Percent Postconsumer Material	² SABRC Product Category Code	Meets SABRC

Public Contract Code sections 12205 (a) (1) (2) (3) (b) (1) (2) (3).

I certify that the above information is true. I further certify that these environmental claims for recycled content regarding these products are consistent with the Federal Trade Commission's Environmental Marketing Guidelines in accordance with PCC Section 12205.

Print name

Signature

Company

Date

(See footnotes on the back of this page.)

Department of Resources Recycling and Recovery
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Postconsumer material comes from products that were bought by consumers, used, and then recycled. For example: a newspaper that has been purchased and read, next recycled, and then used to make another product would be postconsumer material.

If the product does not fit into any of the product categories, enter "N/A." Common N/A products include wood products, natural textiles, aggregate, concrete, electronics such as computers, TV, software on a disk or CD, or telephone.

1. Product category refers to one of the product categories listed below, into which the reportable purchase falls. For products made from multiple materials, choose the category that comprises most of the product by weight, or volume.

Note: For reused or refurbished products, there is no minimum content requirement.

For additional information visit www.calrecycle.ca.gov/BuyRecycled/

Code	Description Product Categories (11)	Minimum content requirement
1	Paper Products - Recycled	30 percent postconsumer fiber, by fiber weight
2	Printing and Writing - Recycled	30 percent postconsumer fiber, by fiber weight
3	Compost, Co-compost, and Mulch – Recycled	80 percent recovered materials. i.e., material that would otherwise be normally disposed of in a landfill
4	Glass – Recycled	10 percent postconsumer, by weight
5	Rerefined Lubricating Oil - Recycled	70 percent re-refined base oil
6a	Plastic – Recycled	10 percent postconsumer, by weight
6b	Printer or duplication cartridges	<ul style="list-style-type: none"> a. Have 10 percent postconsumer material, or b. Are purchased as remanufactured, or c. Are backed by a vendor-offered program that will take back the printer cartridges after their useful life and ensure that the cartridges are recycled and comply with the definition of recycled as set forth in Section 12156 of the Public Contract Code.
7	Paint – Recycled	50 percent postconsumer paint (exceptions when 50% postconsumer content is not available or is restricted by a local air quality management district, then 10% postconsumer content may be substituted)
8	Antifreeze – Recycled	70 percent postconsumer material
9	Retreated Tires - Recycled	Use existing casing that has undergone retreading or recapping process in accordance with Public Resource Code (commencing with section 42400).
10	Tire- Derived - Recycled	50 percent postconsumer tires
11	Metals – Recycled	10 percent postconsumer, by weight

EXHIBIT G

Required Contract Clauses for FEMA Public Assistance Program Contracts

- A. Equal Employment Opportunity (Reference: 41 CFR Part 60-1.4(b)):** During the performance of this contract, the contractor agrees as follows:
1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
 3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 5. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 7. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency

may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

C. Contract Work Hours and Safety Standards Act (Reference: 29 CFR 5.5(b)):

Compliance with the Contract Work Hours and Safety Standards Act.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
3. Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

D. Clean Air Act and Federal Water Pollution Control Act:

D.1-Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.

2. The contractor agrees to report each violation to the California Air Resources Board and understands and agrees that the California Air Resources Board will, in turn, report each violation as required to assure notification to the Department of Resources Recycling and Recovery, the California Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

D.2-Federal Water Pollution Control Act

1. The contractor agrees to and the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251 et seq.
2. The contractor agrees to report each violation to the State Water Resources Control Board and understands and agrees that the State Water Resources Control Board will, in turn, report each violation as required to assure notification to the Department of Resources Recycling and Recovery, the California Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

E. Suspension and Debarment

1. This contract is a covered a transaction for the purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. Section 180.995), or its affiliates (defined at 2 C.F.R. Section 180.905) are excluded (defined at 2 C.F.R. Section 180.940) or disqualified (defined at 2 C.F.R. Section 180.935).
2. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
3. This certification is a material representation of fact relied upon by CalRecycle. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of California, CalOES, and CalRecycle, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
4. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

F. Byrd Anti-Lobbying Amendment, 31 U.S.C. Section 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not been used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. Section 1352. Each tier

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shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

Appendix A, 44 C.F.R. Part 18 – Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

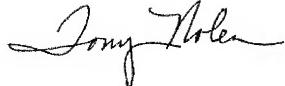
(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with the instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this contract imposed by 31, U.S.C. section 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, ECC Constructors LLC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

Tony Nolen, Corporate Counsel

Name and Title of Contractor's Authorized Official

January 17, 2019

Date

- G. Access to Records:** The following access to records requirements apply to this contract:
1. The Contractor agrees to provide the Department of Resources Recycling and Recovery, the Governor's Office of Emergency Services, the FEMA Administrator, the Controller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
 2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever of to copy excerpts and transcriptions as reasonably needed.
 3. The contractor agrees to provide the FEMA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the contract.

H. DHS Seal, Logo, and Flags:

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

I. Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgement that FEMA financial assistance will be used to fund this contract only. The contractor will comply with all federal law, regulations, executive orders, FEMA policies, procedures, and directives.

J. No Obligation by Federal Government

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

K. Program Fraud and False or Fraudulent Statements or Related Acts

The contractor acknowledges the 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract..

L. Required Affirmative Steps to Assure Certain Firms Are Used (Reference: 2 CFR 200.321)

During the performance of this contract, the contractor agrees, if subcontracts are to be let, to take the following affirmative steps:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

M. Procurement of Recovered Materials (Reference 2 CFR 200.322)

The contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired.

(i) Competitively within a timeframe providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site,
<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

EXHIBIT H

Modification To General Provisions From Department Of Transportation Standard Specifications

General Provisions shall be as indicated in the applicable portions of Sections 1 through 9 of the Standard Specifications except as modified herein. To extent that any term or subsection of the incorporated Standard Specifications is in conflict with ANY OTHER exhibit, term, condition, or requirement of the contract, the other contract language will control. For resolution of any inconsistencies or conflicts in language, the Standard Specifications (as modified herein), are absolutely last in the order of precedence.

References to State, the Department of Transportation, Director of Transportation, or other Department of Transportation personnel shall be interpreted to mean the Department of Resources Recycling and Recovery (CalRecycle), and corresponding Director, Engineer, staff, or other CalRecycle-designated representative respectively. Working titles having a masculine gender, such as "workman" and "journeyman" and the pronoun "he", are utilized in the specifications for the sake of brevity, and intended to refer to persons of either gender.

SECTION 2 – BIDDING

Delete Section 2 entirely.

SECTION 3 – CONTRACT AWARD AND EXECUTION

Delete all subsections except 3-1.03

SECTION 4 - SCOPE OF WORK

Amend the following subsections to read:

4-1.02 Intent of Plans and Specifications - Replace first sentence with the following: The intent of the Work Order is to prescribe the details for work planning and construction and completion of the work which the Contractor undertakes to perform in accordance with the terms of the Agreement. Where the plans or specifications describe portions of the work in general terms, but not in complete detail, it is understood that only the best general practice is to prevail and that only materials and workmanship of the first quality are to be used. Unless otherwise specified, the Contractor shall furnish all labor, materials, tools, equipment, and incidentals, and do all the work involved in executing the Agreement in a satisfactory and workmanlike manner.

4-1.05 Changes and Extra Work - Replace entire subsection with the following: If the Contractor becomes aware of changed site conditions, is directed to perform work outside the Scope of Work of this Agreement, or encounters any other situation where it believes an adjustment of costs from the Bid Schedule is justified, the Contract must immediately notify the Contract Manager of the need for a Change Order. Failure to promptly notify the Contract Manager constitutes a waiver of any claim for additional compensation prior to actual notification to the Contract Manager.

The Contract Manager shall notify the Contractor whether to continue the affected work and issue a Change Order if adjustment to the Bid Schedule costs is necessary. The Contractor shall promptly provide all information requested by the Contract Manager in support of a Change Order. Upon completion, a Change Order shall be attached to this Agreement through the formal amendment process. A Change Order shall specify the effective date of the adjusted costs, but those costs cannot be invoiced at the adjusted rate prior the completion of the amendment.

Delete subsection 4-1.07.

SECTION 5 - CONTROL OF WORK

Amend the following subsections to read:

5-1.02 Contract Components - Replace entire subsection with the following: These General Conditions, the plans and specifications, the Work Plan, Work Orders, Special Provisions, Change Orders, and all supplementary documents are essential parts of the Agreement, and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for complete work.

The Contractor shall not perform or undertake any work that is not indicated or addressed in the Work Order. The Contractor shall immediately notify CalRecycle staff of any condition or event that may interfere with completion of the work or which may require a modification of the Work Order. CalRecycle staff will, in a reasonable time, provide written direction to the Contractor clarifying any required adjustment to the Work Order. Any unauthorized modification of the Work Order, work in excess of that provided for in the Work Order, or changes and additions not authorized in writing by CalRecycle staff, will not be considered for compensation.

Should it appear that the work to be done or any matters relative thereto are not sufficiently detailed or explained in these specifications, the special provisions, or the plans, the Contractor shall request CalRecycle staff to provide such further explanations as may be necessary and shall conform to them as part of the Agreement. In the event of any doubt or question arising respecting the true meaning of these specifications, the special provisions or the plans, reference shall be made to CalRecycle staff, whose decision thereon shall be final.

All work and material shall be in accordance with terms of the Work Order, Work Plan, this IFB and applicable sections of the Standard Specifications. In the event of any discrepancy between any drawing and the figures written thereon, the figures shall be taken as correct. Detail drawings shall prevail over general drawings. The precedence of contract documents shall be as follows:

1. Permits from other agencies as may be required by law;
2. Conditions of the Work Order;
3. Special provisions;
4. Project plans;
5. Standard plans; and
6. Standard Specifications.

Change Orders and Agreement amendments will take precedence over Items 2 through 6 above. If there is a conflict between the Agreement documents, the document highest in precedence shall control.

Delete subsections 5-1.09, 5-1.13B, and 5-1.43E.

SECTION 7 - LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

Delete subsection 7-1.11.

SECTION 8 – PROSECUTION AND PROGRESS

Delete subsections 8-1.02 and 8-1.04.

SECTION 9 – PAYMENT

Delete subsections 9-1.07, 9-1.11, 9-1.16, 9-1.17, and 9-1.22.